

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II
26 Federal Plaza
New York, New York 10007

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In the Matter of :
 :
L. E. Carpenter & Co. :
Wharton, New Jersey :
 :
 :
Violation of the Oil Pollution :
Prevention Regulations issued :
pursuant to §311(j)(1)(C) of the :
Federal Water Pollution Control Act :
Amendments of 1972, 33 U.S.C. §1321 :
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OH-II-75-6

NOTICE OF VIOLATION
AND ASSESSMENT OF
CIVIL PENALTY

NOTICE OF VIOLATION

This is to notify you that there is reason to believe that L. E. Carpenter & Co. (hereinafter, "Carpenter") is subject to the Oil Pollution Prevention Regulations, 40 CFR Part 112, published at 38 Federal Register 237, pp. 34165-34170 (December 11, 1973), promulgated pursuant to §311 (j)(1)(C) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. §1321(j)(1)(C), and that Carpenter has violated §112.3 of the Regulations, and that more specifically, Carpenter has failed to prepare and maintain at its facility located at 170 Main Street, Wharton, New Jersey 07885 after July 10, 1974, a Spill Prevention Control and Countermeasure Plan as required by §112.3 of the Regulations.

ASSESSMENT OF CIVIL PENALTY

Section 112.6 of the Oil Pollution Prevention Regulations, as amended at 39 Federal Register 169, p. 31602 (August 29, 1974), provides that violation of 40 CFR §112.3 gives rise to liability for a civil penalty, not to exceed \$5000 (FIVE THOUSAND DOLLARS) for each day the violation continues.

WHEREFORE, on the basis of the facts presently before the Environmental Protection Agency (EPA), L. E. Carpenter & Co. is hereby assessed a civil penalty in the amount of \$5,000 (FIVE THOUSAND DOLLARS).

WAIVER OF HEARING

If Carpenter wishes to waive opportunity for a Hearing as set forth below, payment may be made by check payable to the Environmental Protection Agency and submitted to the following address within 30 (THIRTY) days of receipt of this Notice:

Director, Enforcement and Regional Counsel Division
Region II, United States Environmental Protection Agency
26 Federal Plaza
New York, New York 10007

346293



SUBMISSION OF WRITTEN EXPLANATION

In lieu of payment of the penalty assessed or a request for a Hearing as set forth below, Carpenter may, within 10 (TEN) days of receipt of this Notice, submit to EPA written explanations, information, or other materials in answer to the charges made, in mitigation of the penalty assessed, or bearing on its efforts to achieve compliance after notification of the violation. A reassessment of the proposed penalty will be made on the basis of any information received, and a revised Assessment of Civil Penalty for Violation of Oil Pollution Prevention Regulations may be issued if it is determined that a penalty in a different amount is appropriate. If it is determined that the amount of the penalty assessed should not be changed, Carpenter will be so informed.

NOTICE OF OPPORTUNITY FOR A HEARING

Within 30 (THIRTY) days of the date of receipt of a Notice of Violation, Carpenter may, pursuant to §114.5 of Interim Regulations on Civil Penalties for Violation of Oil Pollution Prevention Regulations, 40 CFR Part 114, published at 39 Fed. Reg. 169, pp. 31602-31603 (August 29, 1974), request a Hearing by submitting a written request, signed by a duly authorized officer, director, agent or attorney to the Regional Administrator, Region II, EPA. Requests for Hearings shall state the name and address of the person requesting the Hearing, enclose a copy of the Notice of Violation, and state with particularity the issues to be raised at the Hearing. If the request complies with the requirements of 40 CFR §114.5, a Hearing will be scheduled at the earliest possible date at a time and location set by EPA after consultation with Carpenter. The Hearing will be conducted in accordance with 40 CFR §114.9. Carpenter may be represented by counsel at the Hearing.

Within 30 (THIRTY) days after the conclusion of the Hearing, the Presiding Officer shall issue findings, including the amount of the civil penalty to be assessed. A copy of the Presiding Officer's decision shall be sent to Carpenter. The decision of the Presiding Officer shall become the final decision of EPA unless within 15 (FIFTEEN) days from the date of receipt of such decision Carpenter appeals the decision to the Administrator. Any Appeal must follow the format set forth in 40 CFR §114.11(b). In rendering his decision, the Administrator may adopt, modify, or set aside the decision of the Presiding Officer.

If the decision of the Presiding Officer or, in the case of an Appeal, the Administrator, assesses a penalty as part of his decision, such penalty shall be payable within 30 (THIRTY) days of receipt of the Final Order.

SETTLEMENT CONFERENCE

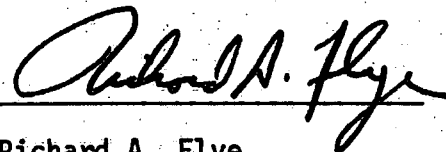
At any time after receipt of this Notice of Violation and prior to the date set for a Hearing Carpenter may confer with EPA concerning either the violation noticed herein or the penalty to be assessed. Should the conference result in a settlement agreement, that agreement shall be issued as a written Order on Consent by the Regional Administrator, Region II, EPA. The issuance of such an Order on Consent shall constitute a waiver of Carpenter's right to contest through further administrative proceedings any matter stipulated to therein.

FURTHER INFORMATION

If you wish to discuss the possibility of a settlement of this matter, schedule a conference with EPA, or make further inquiries, contact Mr. Richard A. Flye, Chief, Water Enforcement Branch, Region II, EPA, 26 Federal Plaza, New York, New York 10007, (212) 264-9885.

Dated this 20TH day of

FEBRUARY 1975



Richard A. Flye
Chief
Water Enforcement Branch
Enforcement and Regional
Counsel Division